

MDR Tracking Number: M5-04-3783-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 7-2-04.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the work hardening program from dates of service 3-15-03 through 5-4-04 was not medically necessary.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity fees were the only fees involved in the medical dispute to be resolved. As the services listed above were not found to be medically necessary, reimbursement for dates of service 3-15-03 through 5-4-04 is denied and the Medical Review Division declines to issue an Order in this dispute.

This Decision is hereby issued this 16<sup>th</sup> day of September, 2004.

Donna Auby  
Medical Dispute Resolution Officer  
Medical Review Division

DA/da

**NOTICE OF INDEPENDENT REVIEW DECISION - REVISION**

**Date:** September 2, 2004

**RE: MDR Tracking #:** M5-04-3783-01  
**IRO Certificate #:** 5242

\_\_\_\_\_ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to \_\_\_\_\_ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

\_\_\_\_\_ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a Chiropractic physician reviewer. The Chiropractic physician reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

**Submitted by Requester:**

- A statement letter
- Functional capacity evaluation (FCE) reports
- Work conditioning and hardening notes
- An MRI report
- Daily notes

**Submitted by Respondent:**

- No documentation were supplied by the carrier

**Clinical History**

According to the supplied documentation, it appears that the claimant sustained an injury to her lumbar spine on \_\_\_\_\_. The claimant reported hurting her low back when she was transporting a patient from the bed to the commode. She began seeing a medical doctor and chiropractor for her complaints. An MRI dated 07/24/2003 revealed a broad-based herniated nucleus pulposus at L5-S1 which abutted the thecal sac, but caused no significant neural encroachment. The documentation from the date of injury until the work conditioning program is extremely limited and does not reveal much. On 02/20/2004 the claimant underwent an FCE which revealed that she was at a medium level. \_\_\_\_\_ requested and was approved for 2 weeks of work conditioning. \_\_\_\_\_ continued the program and actually changed the program into a work hardening program which lasted until 05/04/2004.

**Requested Service(s)**

Please review and address the medical necessity of the outpatient services including the work hardening program from 03/15/2004 until 05/04/2004.

**Decision**

I agree with the insurance company that the services rendered from 03/15/2004 until 05/04/2004 were not medically necessary.

**Rationale/Basis for Decision**

As stated above, the documentation supplied prior to the dates of service in question was very limited. The claimant's medical doctor reported that the claimant should continue a rehab program, but did not use any objective documentation to support the rationale behind his recommendation. An FCE performed prior to the dates of service in question on 02/10/2004 by \_\_\_\_\_ reveals that the claimant was at her job capacity of medium level and was able to perform the tests associated with a medium duty position. \_\_\_\_\_ report states that the claimant needed to be at a medium physical duty level prior to returning to work, which it was

determined that she was. The report later states that her current status had changed, but it did not report what it had changed to. The FCE report did not objectively support the work conditioning or work hardening program and actually supported the claimant returning to work. The 28 session of therapy rendered between 03/15/2004 through 05/04/2004 is not supported objectively anywhere in the supplied documentation or in the letter of statement from the treating doctors office. Their documentation revealed that the claimant sustained an injury to her L5-S1 disc. The claimant apparently underwent some amount of therapy, and the FCE performed on 02/10/2004 revealed that the claimant was able to return to work. Not returning the claimant to work, when the claimant is physically able to do is considered counterproductive and against current medical protocols.